428

SUPREME COURT OF THE UNITED STATES.

No. 83.

JOHN C. SINNOTT, SAMUEL WOLF, AND JAMES SANDS, PL'FS IN ER.,

vs.

GORHAM DAVENPORT AND AL., COMMISSIONERS OF PILOTAGE OF THE BAY AND HARBOR OF MOBILE.

IN ERROR TO THE SUPREME COURT OF THE STATE OF ALABAMA.

INDEX.

	Original.	Print.
Writ of error	1	1
Citation and service	3	1
Transcript of record from city court of Mobile	9	4
Libel	9	4
Writ of seizure and return	12	6
Stipulators' bond	12	7
Answer and exceptions	13	7
Decree of city court	17	10
Certificate of appeal	18	11
Appeal bond	18	11
Citation and service	19	12
Certificate of clerk of city court	19	13
Assignment of errors	20	13
Judgment of supreme court	20	13
Copy of writ of error	21	14
Copy of bond	22	14
Copy of citation and service	22	15
Certificate of clerk supreme court	24	16

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America, to the judges of the supreme court of the State of Alabama, greeting;

Because in the record and proceedings, as also in the rendition of a judgment in a plea which is in the said supreme court of the State of Alabama, before you, between John C. Sinnott, Samuel Wolff, and James Sands, on the one side, and Gorham Davenport, Henry O. Brewer, George Scheffelin, Joshua S. Secor, and A. W. Deering, commissioners of pilotage of the bay and harbor of Mobile, on the other, a manifest error hath happened, to the great damage of the said John C. Sinnott, Samuel Wolff, and James Sands, as by their complaint appears; and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the first Monday in December next, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the law and custom of the United States should be done.

Witness the honorable Roger B. Taney, Chief Justice of the said Supreme Court of the United States, this first day of July, in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States the eighty-second year.

[SEAL.]

Attest: GEO. E. HOLT,
Clerk C. C. Sou. Dist. Ala.

UNITED STATES OF AMERICA, *ss:*

To Gorham Davenport, Henry O. Brewer, George Scheffelin, Joshua S. Secor, and A. W. Deering, commissioners of pilotage of the bay and harbor of Mobile, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday in December next, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Alabama, wherein John C. Sinnott, Samuel Wolff, and James Sands are plaintiffs and you are defendants in error, to show cause, if any there be, why the judgment in the said writ of error mentioned

should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the honorable Samuel F. Rice, chief justice of the said supreme court of the State of Alabama, this 30th day of July, in the year of our Lord eighteen hundred and fifty-seven.

SAM'L F. RICE,
Chief Justice of the Supreme Court of Alabama.

STATE OF ALABAMA,
Mobile County.

Before me, Richard B. Owen, a commissioner of bail and affidavits, appointed by the honorable the circuit court of the United States for the fifth judicial circuit and southern district of Alabama, personally appeared W. W. Cleveland, a deputy sheriff for the county of Mobile aforesaid; and said Cleveland, on his oath, saith that he served a copy of the within citation in error, on the fourteenth day of October, A. D. 1857, on John T. Taylor, esq., as the attorney of the commissioners of pilotage for the bay and harbor of Mobile.

W. W. CLEVELAND, *D. S.*

Sworn to and subscribed before me this 25th day of November, A. D. 1857.

RICHARD B. OWEN,
U. S. Commissioner.

STATE OF ALABAMA,
Mobile County.

Before me, Richard B. Owen, a commissioner of bail and affidavits, appointed by the honorable the circuit court of the United States for the fifth judicial circuit and southern district of Alabama, personally appeared George W. Mettee, a deputy sheriff for the said county of Mobile; and said Mettee, on his oath, saith that he served a copy of the foregoing citation on each of the following named parties, to wit: Gorham Davenport, George Scheffelin, and A. W. Deering, and that on the nineteenth day of August, A. D. 1857, he served a copy of the same citation on Joshua S. Secor.

GEO. W. METTEE.

Sworn to and subscribed before me this 25th day of November, A. D. 1857.

R. B. OWEN, *U. S. Commissioner.*

On the 14th October, 1857, I served a copy of the within citation on John T. Taylor, esq., as att'y for the com'rs of pilotage.

U. T. CLEVELAND, *Sheriff M. C.*
By W. W. CLEVELAND, *D. S.*

August 10th, 1857, I served a copy of the within citation on Gorham Davenport and George Scheffelin, and on same day I served a copy on A. W. Dearring.

U. T. CLEVELAND, *Shff. M. C.*
By G. W. METTEE, *D. S.*

August 19th, 1857, I served a copy of the within citation on Joshua S. Secor.

U. T. CLEVELAND, *Shff. M. C.*
By G. W. METTEE, *D. S.*

[Endorsed:] 134. John C. Sinnott et als., stipulators, vs. J. S. Secor et als., commr's, &c. Citation. The sheriff of Mobile county will serve copies of the within citation on Gorham Davenport, George Scheffelin, Joshua S. Secor, A. W. Deering, and Henry O. Brewer, if to be found in his county, and make return accordingly. Also serve on Jno. T. Taylor, esq., att'y for com'rs of pilotage.

UNITED STATES OF AMERICA, *ss:*

To Gorham Davenport, Henry O. Brewer, George Scheffelin, Joshua S. Secor, and A. W. Deering, commissioners of pilotage of the bay and harbor of Mobile, greeting:

You are hereby cited and admonished to be and appear at a supreme court of the United States, to be holden at Washington the first Monday in December next, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Alabama, wherein John C. Sinnott, Samuel Wolff, and James Sands are plaintiffs and you are defendants in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the honorable Sam'l F. Rice, chief justice of the said supreme court of the State of Alabama, this 30th day of July, in the year of our Lord eighteen hundred and fifty-seven.

(Signed,) SAM'L F. RICE,
Chief Justice of the Supreme Court of Alabama.

[Endorsed:] John C. Sinnott et al. vs. Commissioners of Pilotage. I acknowledge that I have received a copy of the original of the within notice, this 17th day of August, A. D. 1857. H. O. Brewer.

Be it remembered, that at a regular term of the supreme court of the State of Alabama, begun and held on the first Monday in June, A. D. 1857, there were present and presiding as judges of said court, Hon. Samuel F. Rice, chief justice, Hon. Abram J. Walker, associate justice, Hon. George W. Stone, associate justice, before whom the following proceedings were had, on the transcript

of a record from the city court of Mobile, filed in the office of the clerk of the supreme court, on the 4th day of March, A. D. 1857; which said transcript is in the words and figures following, to wit:

THE STATE OF ALABAMA,
Mobile County.

Pleas before the hon'ble Alexander McKinstry, judge of the city court of Mobile, for the county and State aforesaid, at a term thereof begun and held on the third Monday of November, 1856, being held for the transaction of admiralty business.

Libel and Complaint.

THE STATE OF ALABAMA,
Mobile County, City Court of Mobile.

To the honorable Alexander McKinstry, judge of said court:

Henry O. Brewer, Gorham Davenport, Alexander Deering, George Scheffelin, and Joshua S. Secor, commissioners of pilotage of the bay and harbor of Mobile, and in their capacity as such commissioners, complain against the steamboat called the William Bagaley, of which J. C. Sinnott now is or lately was master, her tackle, apparel, and furniture, and against all persons lawfully intervening for their interest in the same; and thereupon said commissioners claim, in this action against said boat, the sum of four thousand dollars, for eight several, distinct, and separate violations of an act entitled "An act to provide for the registration of the names of steamboat owners," approved February 15th, 1854, in this, to wit, (said complainants being the commissioners referred to in said act,) that the owners of the said steamboat, in violation of said act, did permit the said steamboat to be navigated on the Alabama river, a river of this State, on the 16th day of February, 1855, without first having filed the certificate or statement, as provided for by and required in the act aforesaid; and said steamboat left the port of Mobile after the first day of July, 1854, for the purpose of said navigation.

And in this, to wit, that the owners of the steamboat, in violation of said act, did permit said steamboat to be navigated on the Alabama river, a river of this State, on the 17th day of February, 1855, without first having filed the certificate or statement, as provided for by and required in the act aforesaid; and said steamboat left the port of Mobile after the first day of July, 1854, for the purpose of said navigation.

And in this, to wit, that the owners of the said steamboat, in violation of said act, did permit the said steamboat to be navigated on the Alabama, a river of this State, on the 18th day of February, 1855, without first having filed the certificate or statement, as provided for by and required in the act aforesaid; and said steamboat

left the port of Mobile after the first day of July, 1854, for the purpose of said navigation.

And in this, to wit, that the owners of the said steamboat, in violation of said act, did permit the said steamboat to be navigated on the Alabama river, a river of this State, on the 19th day of February, 1855, without first having filed the certificate or statement, as provided for by and required in the act aforesaid; and said steamboat left the port of Mobile after the first day of July, 1854, for the purpose of said navigation.

And in this, to wit, that the owners of the said steamboat, in violation of said act, did permit said steamboat to be navigated on the Alabama river, a river of this State, on the 20th and 21st days of February, 1855, without first having filed the certificate or statement, as provided for by and required in the act aforesaid; and said steamboat left the port of Mobile after the first day of July, 1854, for the purpose of said navigation.

And in this, to wit, that the owners of said steamboat, in violation of said act, did permit said steamboat to be navigated on the Alabama river, a river of this State, on the 22d and 23d days of February, 1855, without first having filed the certificate or statement, as provided for by and required in the act aforesaid; and the said steamboat left the port of Mobile after the first day of July, 1854, for the purpose of said navigation:

Making, in all, eight several, distinct, and separate violations of said act as aforesaid; and a recovery is sought in this case—one-half to the use of said commissioners, and the other half to John T. Webb, he being the person who first informed the said commissioners in the premises aforesaid. Wherefore said commissioners pray that a writ of seizure may issue against the said steamboat, her tackle, apparel, and furniture, wheresoever the same may be found, if within the jurisdiction of this court, returnable to the first Monday of April, 1855; and that all persons having or pretending to have any right, title, or interest in the said vessel may be cited to appear and answer all and singular the matters herein set forth, and to abide the judgment and decree of this court in the premises; and that this hon'ble court will be pleased to decree that said commissioners do recover, for the uses aforesaid, said several sums of money, making in all the said sum of four thousand dollars in this behalf, against the said boat, her tackle, apparel, and furniture; and may it please the court to grant such other order or further relief in the premises as to law and justice may appertain, and also to condemn the said boat, her tackle, apparel, and furniture, and all persons intervening for their interest in the same in costs.

JOHN T. WEBB.

TAYLOR & HITCHCOCK,
Attorneys and Proctors.

THE STATE OF ALABAMA,
Mobile County.

Before me, Reuben A. Lewis, clerk of the city court of Mobile, personally appeared John T. Webb, who is personally known to me, and being by me duly sworn, saith, on oath, that the several allegations contained in the above complaint, subscribed by him, are true in substance and in fact, and that he is the agent of the said commissioners in the matter of this suit.

In witness whereof, I have hereunto set my hand this the first day of March, 1855.

R. A. LEWIS, *Clerk.*

We acknowledge ourselves the security of the complainants in the within stated cause for the costs of the prosecution of said suit.

Witness our hands and seals the first day of March, 1855.

J. S. SECOR, [SEAL.]
Com'rs of Pilotage.
A. W. DEARING, [SEAL.]
GEO. SCHEFFELIN, [SEAL.]
RICHARD THEADAN, [SEAL.]

Writ of Seizure.

THE STATE OF ALABAMA,
Mobile County.

To any sheriff of the State of Alabama, greeting:

Whereas Henry O. Brewer, Gorham Davenport, Alexander W. Dearing, George Scheffelin, and Joshua S. Secor, commissioners of pilotage of the bay and harbor of Mobile, and in their capacity as such commissioners, have complained to me, Reuben A. Lewis, clerk of the city court of Mobile, against the steamboat called the William Bagaley, of which J. C. Sinnott now is or lately was master, her tackle, apparel, and furniture, a copy of which complaint is hereto attached, for eight several, distinct, and separate violations of an act entitled "An act to provide for the registration of the names of steamboat owners," approved February 15th, 1854, the penalties of which violations amounting in the whole to the sum of four thousand dollars: Now, therefore, you are hereby commanded to seize and take into your possession the said steamboat, her tackle, apparel, and furniture, and hold her until released by due course of law.

Witness Reuben A. Lewis, clerk of the city court of Mobile, this first day of March, A. D. 1855.

Issued 1st day of March, A. D. 1855.

Attest: REUBEN A. LEWIS,
Clerk.

Shff.'s Return.

Rec'd 2d day of March, 1855, and on the 6th day of March, 1855, J. C. Sinnott and Samuel Wolf give bond for the forthcoming of said boat, which bond is herewith.

J. W. LANG, *Shff. M. C.*
By M. P. ROULSTON, *D. S.*

Stipulators' Bond.

THE STATE OF ALABAMA,
Mobile County.

Know all men by these presents, that we, John C. Sinnot, as master of the steamboat, and Samuel Wolf, are held and firmly bound unto H. O. Brewer, Gorham Davenport, Alexander W. Dearing, George Scheffelin, and Joshua S. Secor, as commissioners of pilotage for the bay and harbor of Mobile, in the full and just sum of one thousand dollars, for the faithful payment of which we and each of us bind ourselves, and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this 6th day of March, in the year of our Lord one thousand eight hundred and fifty-five.

The condition of the above obligation is such, that whereas Joshua S. Secor, A. W. Dearing, and George Scheffelin, in behalf of said commissioners of pilotage, upon the information of John T. Webb, caused to be filed, in the city court of Mobile, process in the nature of a libel in admiralty against the steamboat called the William Bagaley, of which John C. Sinnot is or was master, now lying in the port of Mobile; and James W. Lang, sheriff of Mobile county, having attached and seized the said steamboat, her tackel, apparel, and furniture, by virtue of a writ of seizure issued from the city court of Mobile aforesaid on the first day of March, 1855, and returnable to a term thereof to be held on the first Monday of April, 1855:

Now, therefore, if the said above bounded John C. Sinnot shall well and truly pay and satisfy such judgment as shall be rendered on said libel, then this obligation to be void, or else to be and remain in full force and virtue.

J. C. SINNOT, [SEAL.]
SAMUEL WOLF, [SEAL.]

Answer and Exceptions.

To the honorable Alexander McKinstry, judge of the city court of Mobile.

The stipulator and defendant, John C. Sinnot, claims to be the master of the steamboat William Bagaley, seized under process issued from this honorable court, and of which said boat Ralph

Bagaley, of Pittsburg, in the State of Pennsylvania, is the sole owner.

The said Sinnot excepts to the jurisdiction of this honorable court in the premises, and for cause shows—

First. That no sufficient complaint has been filed to enable this honorable court to take jurisdiction under the laws of Alabama.

Second. That the act of the General Assembly of the State, approved February 15th, 1854, under which this proceeding is had, is contrary to the first article of the declaration of rights in the State constitution.

Third. That it would be contrary to the 16th section of the 1st article of the constitution of the State for the General Assembly to impose more than one penalty of five hundred dollars, in view of the other provisions of this law, upon any one set of owners of a boat.

Fourth. That said statute is unconstitutional in this, that it is contrary to sections 28 and 29 of the first article of the State constitution.

Said defendant also excepts to the complaint filed, and for cause shows—

First. That it was not filed by the commissioners of pilotage of the bay and harbor of Mobile.

Second. That it was not filed by all of the commissioners of pilotage of the bay and harbor of Mobile.

Third. That it was not sworn to in pursuance of law and the rules of this honorable court.

Fourth. That it was not filed by the persons claiming the lien which is attempted to be set up.

Fifth. That it does not sufficiently set out at what time the alleged claim is claimed to have been due.

Wherefore, and on account of the said various causes of exception, the said defendant submits that he is not bound further to answer the said complaint, and he craves the benefit of a demurrer on the same grounds as above set out, if a demurrer is necessary, and he prays that the said complaint may be dismissed with costs.

And now the defendant, saving all benefit and advantage of the said causes of exception or demurrer, and of all matters of exceptions not above specially set forth, for answer to said complaint, says he is not positively informed whether or not the persons who are in said complaint alleged to be commissioners of pilotage are in fact so, and he asks for proof. He does not know positively whether or not all of the commissioners for the bay of Mobile joined in authorizing said complaint to be filed, and he prays for strict proof on this subject. He admits he was and is master of the said steamboat William Bagaley—admits that the said steamboat was navigated by the permission of her owner on the river Alabama, upon seven different days in the month of February, 1855, and that she left Mobile for the purpose of said navigation after the first day of July,

1854, and before filing any certificate or statement as to her ownership in the office of the judge of probate for Mobile county; but respondent says that all of said navigation composed but one trip up the river and back, and that the said boat left the port of Mobile but once during the time to go up the said river; and this respondent says, that during all the time, from the time of the first leaving Mobile and down to the present moment, said boat has always belonged to the said Ralph Bagaley, and to no other person. Respondent, further answering, says that said boat was built at Pittsburgh or thereabouts, in the State of Pennsylvania; that she left Pittsburgh on or about the 28th of November, 1854, and proceeded to New Orleans, and on her way down she took on board at Cincinnati, in the State of Ohio, a quantity of freight for New Orleans, and also some for Mobile, and some for Montgomery and Wetumpka; that she reached New Orleans sometime in the month of January; that previous to her leaving Pittsburg said boat was regularly enrolled and licensed, in pursuance of the laws of the United States of America, and which enrollment and license are still in full force, and will be produced and proved as your honor may require; that while at New Orleans, in the State of Louisiana, said boat was regularly cleared at the custom-house of that port, (and, in pursuance of the laws of the United States, for) Montgomery and Wetumpka, in the State of Alabama; that said boat left New Orleans for Montgomery and Wetumpka, for purposes of navigation and commerce between New Orleans and Montgomery and Wetumpka, on or about the 17th January, 1855, and arrived at Mobile on or about the 19th day of January, 1855, where she discharged her freight, and remained until the 16th day of February, 1855, when she proceeded on her way to Montgomery, in pursuit of her lawful business, and for purposes of navigation and commerce, and that she passed Mobile, on her return from Montgomery and Wetumpka, on or about the 23d of February, 1855, and proceeded immediately to New Orleans without stopping at Mobile, as the respondent is advised he had good right to do: said respondent states said boat was intended to do business and has done so between New Orleans as aforesaid and Montgomery and Wetumpka, and to carry on business between these ports, and never was intended to carry on business simply in this the State of Alabama. Respondent respectfully submits to your honor that the owners of said boat complied with all that was required of them by the laws of the United States, in order to authorize the said boat to be navigated from New Orleans, in the State of Louisiana, to Montgomery and Wetumpka, in the State of Alabama, which were the ports between which she was intended to navigate and do business. This respondent further submits to your honor, that he is advised and believes and therefore insists that the General Assembly of the State of Alabama has no constitutional authority to require the owners of said boat, under the circumstances above stated, to comply with the require-

ments of the statute of Alabama, under which this proceeding is had, and he craves leave to except to these proceedings upon that ground; and this respondent further submits to your honor that it would be in violation of the constitution of the United States, as respondent is advised and believes, to exact from them a compliance with the said statute of the State of Alabama, or to claim any penalty under the said statute by reason of said owner not having complied with the requirements of said statute, and this respondent craves leave to except to these proceedings puon that ground, and also claims the same benefit of this objection as if the same were now here specially pleaded in this behalf; and this respondent, having fully answered, prays to be dismissed with costs.

HAMILTONS, *Proctors.*

Before me, William Brooks, a justice of the peace in and for Mobile county, Alabama, personally appeared the above-named John C. Sinnot, who, on oath, says that the statements of the foregoing answer, so far as made of his own knowledge, are true, and so far as stated as being information or belief, he believes the same to be true.

JOHN C. SINNOT.

Subscribed and sworn to before me this 17th March, 1855.

WILLIAM BROOKS, *J. P. M. C.*

Filed March 20th, 1855.

R. A. LEWIS, *Clerk.*

And on the 17th day of November, 1856, being a day of said court, the following judgment was entered up, viz:

Decree.

GORHAM DAVENPORT, H. O. BREWER, George Scheffelin, A. W. Dearing, and J. S. Secor, commissioners of pilotage of the bay and harbor of Mobile,
vs.
STEAMBOAT WILLIAM BAGALEY, J. C. Sinnot, S. Wolf, stipulators.

This cause coming on to be heard on regular call, and both parties appearing by counsel, the case was submitted to the court for final decree on the pleadings and facts agreed upon in open court, to wit:

"In this case the statement of the facts in the answer is admitted to be true. It is also admitted that said boat was regularly engaged in navigation and commerce between the port of New Orleans, in the State of Louisiana, on the one hand, and the cities of

Montgomery and Wetumpka, on the other; that said boat touched at Mobile only for the purposes of better carrying on its said business between New Orleans and Montgomery and Wetumpka. It is further admitted that the persons named as commissioners of pilotage in the complaint are so in fact, and that they were cognizant of the filing of this complaint, and assented to its being done. It is also admitted that there are steamboats navigating and running, with the permission of their owners, upon some of the rivers of the State of Alabama, which never have been in the port of Mobile, and never came near said port in the course of said navigation. As to whether the boats would necessarily be detained at Mobile in making the required registration or not, and as to whether or not the boat would necessarily be subjected to any costs or expenses, are questions submitted to the judge, under the laws of the State of Alabama, which are well considered in evidence before the court;" and the same having been duly considered by the court, the court is unable to distinguish any difference between this case and that of the same plaintiffs against the J. H. Bell et al., lately decided by the supreme court; and this court is therefore of the opinion that the defendants are guilty, and that the libellants are entitled to but one forfeiture, to wit, the sum of five hundred dollars. It is therefore considered by the court, ordered, adjudged, and decreed, that the said libellants have and recover of the said John C. Sinnot and Samuel Wolf, stipulators as aforesaid, the said sum of five hundred dollars, together with the costs in this behalf expended.

Certificate of Appeal.

I, Reuben A. Lewis, clerk of the city court of Mobile, do hereby certify that John C. Sinnot applied for and obtained an appeal in the said entitled case, returnable to the January term, 1857, of the supreme court of the State of Alabama, and gave bond according to law, with Samuel Wolf and James Sands as surety, which bond is herewith attached, as a part of this transcript.

Attest: REUBEN A. LEWIS, *Clerk.*

Appeal Bond.

THE STATE OF ALABAMA,
Mobile County.

Know all men by these presents, that we, John C. Sinnot, Samuel Wolf, and James Sands, are held and firmly bound unto G. Davenport, H. O. Brewer, J. S. Secor, Geo. Scheffelin, and A. W. Dearing, commissioners of pilotage of the bay and harbor of Mobile, in the sum of one thousand dollars, for the payment of which we jointly and severally bind ourselves, our heirs, executors, or administrators, firmly by these presents. Sealed with our seals, and dated this 22d day of December, A. D. 1856.

The condition of the above obligation is such, that whereas the above bounden J. C. Sinnot and Samuel Wolf have this day applied for and obtained an appeal, returnable to the January term, 1857, of the supreme court of Alabama, to supersede and reverse the judgment recovered by the said Davenport, Brewer, Secor, Scheffelin, and Dearing, commissioners of pilotage of the bay and harbor of Mobile, against J. C. Sinnot and Samuel Wolf, stipulators of steamer William Bagaley, at the November term, 1856, of the city court of Mobile, for Mobile county, for five hundred dollars, besides costs:

Now, if the said Sinnot and Wolf shall prosecute to effect their said suit in the supreme court of the State of Alabama, and shall pay and satisfy such judgment as the supreme court shall render in the premises, then this obligation to be null and void, otherwise to be and remain in full force and effect.

J. C. SINNOT, [SEAL.]
By S. Wolf.
S. WOLF, [SEAL.]
JAMES SANDS, [SEAL.]

Approved.

R. A. LEWIS, *Clerk.*

Citation.

THE STATE OF ALABAMA,
Mobile County.

To the sheriff of Mobile county, greeting:

Whereas, at a term of the city court of Mobile, held on the third Monday of November, 1856, in a certain cause in said court, wherein the commissioners of pilotage of the bay and harbor of Mobile are plaintiffs, and the steamer William Bagaley is defendant, a judgment was rendered against John C. Sinnot and S. Wolf, stipulators of said boat, to reverse which the defendants hath this day applied for and obtained from this office a writ of appeal, returnable to the next term of our supreme court of the State of Alabama, to be held at Montgomery on the first Monday of January next, the necessary bond having been given by the said defendants, with James Sands as security:

Now, therefore, you are hereby commanded, without delay, to cite the said commissioners of pilotage of the bay and harbor of Mobile, or John T. Taylor, their attorney, to appear at the next term of our said supreme court, to defend against the said writ of appeal, if they think proper.

Witness Reuben A. Lewis, clerk of the city court of Mobile, this 23d day of December, A. D. 1856.

Issued this 23d day of December, 1856.

Attest: REUBEN A. LEWIS, *Clerk.*

Received December 23d, 1856, and on same day I served a copy of the within citation on John T. Taylor.

U. T. CLEVELAND, *Shff. M. C.*
By G. M. BREWER, *D. Shff.*

THE STATE OF ALABAMA,
Mobile County.

I, Reuben A. Lewis, clerk of the city court of Mobile, for the county and State aforesaid, do hereby certify the foregoing to be a full and complete transcript of all the proceedings had in the said entitled case as the same remains of record in said court.

In testimony whereof, I have hereunto set my hand and affixed [SEAL.] the seal of said court, this 23d day of January, A. D. 1857.

Attest: REUBEN A. LEWIS, *Clerk.*

And afterwards the following errors were assigned, to wit:

SUPREME COURT OF ALA., *Jan'y T.*, 1857.

STEAMER BAGALEY
vs.
COMM'RS OF PILOTAGE. } Appeal from city court Mobile.

And now comes the appellant, and shows to the court that in the record and proceedings of the said city court there is manifest error.

And said appellant assigns for error the decree of the court below on the pleadings and the facts agreed. Wherefore said appellant prays the said decree of the said city court may be reversed, annulled, and for nothing held.

HAMILTON, *For Appellant.*

And afterwards, to wit, on the 5th day of June, A. D. 1857, being a day of the regular June term of said court, the following judgment was rendered, to wit:

STEAMER "WILLIAM BAGALEY," J. C. Sinnot, Samuel Wolf, stipulators,
vs.
J. S. SECOR ET ALS., COMMISSIONERS of Pilotage, &c. } 1 Div., 3053.

Came the parties, by their attorneys, and the record and the matters assigned for error therein being argued and examined, it seems to the court that in the record and proceedings of the city court of Mobile there is no error. It is therefore considered by the court that the judgment of said city court be in all things affirmed, and that said appellees recover of said appellants and of

James Sands, surety, the amount of said judgment of said city court, ten per cent. damages thereon, and interest, together with the costs of this court and of said city court.

Writ of Error.

UNITED STATES OF AMERICA, *ss:*

The President of the United States of America, to the judges of the supreme court of the State of Alabama, greeting;

Because in the record and proceedings, as also in the rendition of a judgment in a plea which is in the said supreme court of the State of Alabama, before you, between John C. Sinnot, Samuel Wolf, and James Sands, on the one side, and Gorham Davenport, Henry O. Brewer, George Scheffelin, Joshua S. Secor, and A. W. Dearing, commissioners of pilotage of the bay and harbor of Mobile, on the other, a manifest error hath happened, to the great damage of the said John C. Sinnot, Samuel Wolf, and James Sands, as by their complaint appears; and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the first Monday in December next, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the law and custom of the United States should be done.

Witness the honorable Roger B. Taney, Chief Justice of the said Supreme Court of the United States, this first day of [SEAL.] July, in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States the eighty-second year.

Attest: GEO. E. HOLT,
Clerk C. C. Sou. Dist. Ala.

Filed July 30th, 1857.

JOHN D. PHELAN,
Clk. Sup. Ct.

Bond.

Know all men by these presents, that we, John C. Sinnot, Samuel Wolf, and James Sands, are held and firmly bound unto the above-named Gorham Davenport, Henry O. Brewer, George Scheffelin, Joshua S. Secor, and A. W. Dearing, commissioners of pilotage of

the bay and harbor of Mobile, and to their successors in office, as such commissioners of pilotage, in the sum of one thousand dollars, to be paid to the said commissioners of pilotage, or their successors in office, to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents. Sealed with our seals, and dated this 30th day of July, A. D. 1857.

Whereas the above-named John C. Sinnot, Samuel Wolf, and James Sands, have prosecuted a writ of error to the Supreme Court of the United States to reverse the judgment rendered by the supreme court of the State of Alabama in the above-entitled cause: Now, therefore, the condition of this obligation is such, that if the above-named John C. Sinnott, Samuel Wolf, and James Sands shall prosecute their said writ of error to effect, and answer all damages and costs if they shall fail to make good their plea, then this obligation shall be void, but otherwise the same shall be and remain in full force and virtue.

JOHN C. SINNOTT, [SEAL.]
S. WOLF, [SEAL.]
Per S. H. Snow.
JAS. SANDS, [SEAL.]
F. M. JOHNSON, [SEAL.]

Sealed and delivered in presence of—
P. HAMILTON,
J. HOGAN DOUGLASS, as to Sands.

Approved by the honorable Sam'l F. Rice, chief justice of the supreme court of Alabama.

Filed 30th July, 1857.

JOHN D. PHELAN, *Clk. Sup. Ct.*

Citation.

UNITED STATES OF AMERICA.

To Gorham Davenport, Henry O. Brewer, George Scheffelin, Joshua S. Secor, and A. W. Dearing, commissioners of the bay and harbor of Mobile, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday in December next, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Alabama, wherein John C. Sinnot, Samuel Wolf, and James Sands are plaintiffs and you are defendants in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the honorable Samuel F. Rice, chief justice of the said